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December 16, 2021

VIA FACSIMILE: 225-381-7271

AND REGULAR MAIL

Gregory L. Thibodeaux, Esq.
Louisiana Board of Ethics
P.O. Box 4368
Baton Rouge, LA 70821

Re: Ethics Board Docket No. 2021-353
Request for Supplemental Opinion

Dear Mr. Thibodeaux:

Further to our recent telephone conversation, I write to request a supplemental opinion from the Ethics Board expanding on its August 10, 2021 opinion in Docket No. 2021-353. This request concerns the portion of the August 10 opinion that provided:

Finally, the Board concluded and instructed me to inform you, the Ethics Code would not prohibit you from handling litigation matters for other state entities [besides the Office of State Lands], provided that you did not participate in these matters while employed with the Department of Justice [emphasis added].

BACKGROUND

I was employed as an Assistant Attorney General at the Louisiana Department of Justice from July 2014 until June 4, 2021. I had been in private practice before then and returned to private practice when I left. At the Attorney General's Office, I worked in the Land and Natural Resources Section of the Civil Division. I almost exclusively represented the Office of State Lands and the Coastal Protection and Restoration Authority in litigation matters while working in Lands and Natural Resources.

After I left the Attorney General's Office, I was asked by my former colleagues in the Civil Division to participate on behalf of the Louisiana Department of Natural Resources ("DNR") in a trial scheduled for August 2021 in Crooks v. DNR, Case No. 224262, 9th Judicial District Court, Rapides Parish. The August 2021 trial dealt with a narrow scientific issue and involved extensive expert witness testimony. Because of my experience with both the issue and the expert witnesses engaged by the plaintiffs, my former colleagues asked me to take part in the trial by cross-

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examining two of the plaintiffs' expert witnesses. I did not solicit the work. I did not work on the Crooks matter while employed at the Department of Justice.

The trial occurred as scheduled in August 2021. I did the work that was requested of me. My former colleagues and DNR were satisfied with my work. I understand that DNR does not object to the amounts of my firm's invoices for the work. Three invoices were submitted to DNR, one for each of June, July, and August, 2021. My law firm has not yet been paid for any of my work.

Because my engagement to work on Crooks and the trial occurred so rapidly, it was not possible to have a contract for professional legal services between DNR and my law firm executed and approved before the trial. The contract eventually was executed in August and September and my firm was registered as an approved state vendor in October. I recently learned that the contract has not been approved by the director of the Civil Division of the Attorney General's Office because of an ethics issue that she believes may exist with my work on the Crooks matter.

The Attorney General's Office has statutory authority to approve contracts with outside legal counsel for state agencies, boards, and commissions (such as DNR). See La. Rev. Stat. § 49:258. The statutory authority does not appear to include consideration of ethical issues. I believe that such issues are within the exclusive purview of the Ethics Board. Still, I understand that the director of the Civil Division is not willing to approve the contract without the supplemental opinion that I now request.

ISSUE

The director of the Civil Division has acknowledged that I did not work on the Crooks matter while I was employed at the Department of Justice. The director has been supplied the Board's opinion in Docket No. 2021-353. The director also understands that employees of the Civil Division reached out to me and asked me to work on the Crooks matter; I did not solicit the work. Additionally, I took part in at least one conference call about Crooks before the trial in which one of the three assistant directors of the Civil Division was on the line. That assistant Division director voiced no surprise or concern to me that I was working on the matter.

I understand that as part of approving the contract the director took the unusual step of reviewing the monthly status reports that I submitted while working in the Civil Division (all Civil Division attorneys submit those reports on a form template). I do not know why the director did so. I have been told that she was not consulted by my former colleagues in the Civil Division before they asked me to work on the Crooks matter and that she feels that she should have been consulted. Regardless of the director's motivation, her scrutiny of my status reports revealed that I had listed a litigation matter involving DNR.

That litigation matter was State of La., through the Dep't of Wildlife and Fisheries and the Dept. of Nat. Res. v. Clovelly Oil Co., LLC, Case No. 135219, 16th Judicial District Court, St. Mary Parish. I was not listed on the pleadings in that matter as counsel for the plaintiffs. I was not

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DNR's (or the Department of Wildlife and Fisheries') point of contact for the matter in the Attorney General's Office.

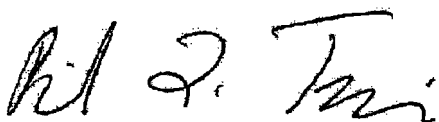
My work on the Clovelly Oil matter was minimal. I participated in one meeting in January 2020 with representatives of the Department of Wildlife and Fisheries (not representatives of DNR) about the matter's background. I never spoke with anyone at DNR about the matter. I was not involved in the matter's prosecution. I did not deal with defense counsel in the matter. I simply commented on the petition before it was filed in October 2020, provided suggested edits to letters to defense counsel about settlement signed by others in Lands and Natural Resources, and provided suggested edits to the settlement agreement that was negotiated and confected by others in Lands and Natural Resources. The Clovelly Oil matter was not "my" case.

The issue that I now ask the Ethics Board to opine on is whether, in light of the minimal work that I did on the Clovelly Oil matter and the above background, my work on the Crooks matter constituted a violation of the Louisiana Code of Governmental Ethics. I firmly believe that it did not. I acted in good faith when I accepted the request of my former colleagues to assist on the Crooks matter and was happy to help the State with my expertise.

Finally, I would like to appear before the Ethics Board when it considers this request to answer any questions that the Board might have. I would appreciate it if this request could be added to the Board's January 6, 2022 agenda. I also would appreciate confirmation of your receipt of this letter.

Thank you; happy holidays.

Sincerely,



RICHARD L. TRAINA

RLT/cbm

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FACSIMILE

Date: December 16, 2021
To: Gregory L. Thibodeaux, Esq.
Louisiana Board of Ethics
Facsimile: (225) 381-7271
From: Richard L. Traina
RE: Ethics Board Docket No. 2021-353
Request for Supplemental Opinion
File No.: 7279.1
NUMBER OF PAGES: 4 (Includes Cover)

COMMENTS:

**CONTACT 504.582.1199 TO REACH THE OPERATOR IF ANY PROBLEMS ARISE.
OUR FAX NUMBER IS 504.582.1240.**

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THANK YOU

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